



State of Arizona  
**Department of Education**

**Tom Horne**  
Superintendent of  
Public Instruction

**CN# 48-06**

**MEMORANDUM**

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**To:** School Health & Nutrition Program Sponsors  
**From:** Mary Szafranski, Deputy Associate Superintendent  
Arizona Department of Education, Health & Nutrition Services  
**Date:** June 2, 2006  
**RE:** School Districts and Federal Procurement Regulations

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This memorandum serves as a reminder for all School Food Authorities (SFA) regarding unfair competition with regard to procurement procedures. As stated in CN memo #29-02, the procurement regulation 7 CFR 3016.60 (b) states "a person that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract terms and conditions or other documents for use by a grantee or sub grantee in conducting a procurement under the Child Nutrition Department programs shall be excluded from competing for such procurements." An example of this is listed below:

- If A+ School Lunch Company provides Good Day District with their honey glazed ham product specifications and the district uses those exact specifications in their RFP then A+ School Lunch Company cannot respond to the RFP for the honey ham product.

The Arizona Department of Education (ADE) will be carefully monitoring the SFA compliance with these procurement regulations. Any SFA that fails to fulfill its responsibilities to draft its own specifications and procurement documents, and copies a list of features or evaluation and ranking criteria drafted by a potential vendor and then permits that potential vendor to submit a bid has violated Department regulation 7 CFR 3016.60 (b).

While it is acceptable for the SFA to gather information for use during the procurement process, information from the potential bidders must be modified to develop customized specifications; otherwise the bidders must be excluded from competing for such procurements.

Additionally, any action that blocks open and free competition seriously undermines the integrity of the procurement process and may create bid protests for the SFA to manage. Therefore, it is required for all SFAs to have protest procedures in place to handle and resolve disputes relating to their procurements and disclose this information to ADE upon request (§3016.36 (b) (12).

If you have questions or concerns regarding this memo, please contact your assigned School Health & Nutrition Program Specialist at 602-542-8700.